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NEA/MAG (MAYA HARRIS), EB/CBA (DWINSTEAD)
STATE PASS USTR
USDOC FOR ITA/MAC/ONE (ROTH AND MASON), ADVOCACY CTR (JAMES)

E.O. 12958: DECL: 10/27/2016
TAGS: [ECON](#) [ENRG](#) [KIDE](#) [EINV](#) [TS](#)
SUBJECT: SCRAP THAT TENDER!! ENERCIEL VS STEG -- THE
LATEST INSTALLMENT

REF: A. 05 TUNIS 1238
[1](#)B. 05 TUNIS 1048
[1](#)C. 05 TUNIS 867
[1](#)D. 05 TUNIS 776
[1](#)E. 03 TUNIS 2416
[1](#)F. 03 TUNIS 426
[1](#)G. 02 TUNIS 2505

Classified By: CDA a.i. David Ballard for reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. In a meeting with representatives of the U.S. company UPC Wind Partners (UPC) and its subsidiary Enerciel Tunisie, Emboffs were briefed on the current status of UPC/Enerciel's wind energy investment (which already approaches USD 3 million) and their ongoing problems with GOT's electricity monopoly, Societe Tunisienne d'Electricite et du Gaz (STEG). The most recent chapter of the long-running dispute (reftels) surrounds STEG's public tender for construction of a STEG-owned 120 megawatt (MW) wind energy project. UPC/Enerciel believes that STEG is again threatening their test sites and data with this tender and requested USG support for annulling the tender. During a follow-up meeting with Enerciel, its representatives related circumstances of an alleged altercation with STEG officials and several purported thugs associated with STEG which has Enerciel's Tunisian employees fearing for their safety and that of their families. Specifically, UPC/Enerciel requested a letter from the Secretary to Tunisian President Ben Ali (not withstanding the GOT's non-response to two earlier letters from the Secretary of Commerce). Absent further information, such as proof of a written agreement between the utility and UPC/Enerciel, Post is not advocating such a move at this time. However, in light of the latest alleged altercation with STEG, perhaps some type of intervention at a lower level would be appropriate. Post seeks Department's recommendation. End Summary.

2.(C) PolEconCouns, EconOff, and Commercial Specialist met on October 11, 2006 with Peter Gish, UPC's General Counsel and Managing Director, and Omar Ben Hassine Bey, representative of its Tunisian subsidiary, Enerciel, at their request. Gish and Bey reported that on September 23, STEG issued public tender (No.2006 E 4025) for a 120MW wind energy project to be built on three contested sites. The sites involved - Medline, Kechabta, and Ben Aouf - are the same sites that Enerciel has been using to collect wind data for its own private wind energy project. UPC/Enerciel views this tender as an attempt by STEG to use Enerciel's data and proposed wind energy sites to build the 120MW STEG-owned facility. Enerciel contends that STEG misrepresented to the Ministry of Industry that STEG controlled subject land.

Enerciel argues that it owns approximately 80% of the land at the Kechabta site and is working to acquire additional property as soon as ownership can be ascertained. Gish and Ben Hassine Bey accuse STEG of intimidating local land owners to keep them from selling their land to Enerciel, including by trying to stir up anti-U.S. sentiment. (Note: Ben Hassine Bey is actually buying the land and leasing it to Enerciel, as Tunisian law forbids foreign ownership of agricultural land. End Note.) Gish has sent a letter to Prime Minister Ghannouchi protesting STEG's actions and requesting his assistance in protecting UPC/Enerciel's investments in Tunisia, but has yet to receive a response.

ICE Studies Wind Energy

¶3. (U) During the meeting, Ben Hassine Bey also presented Post with a study conducted by the International Energy Council (International Conseil Energie - ICE) entitled "Comparison between the public and private approaches to the development of wind energy in Tunisia." According to Gish, ICE is a private, independent and objective organization based in France that is well-known and respected in the industry. The study concludes that the private approach is more advantageous than the public approach, since the public approach to wind energy development does not take into account exchange risk. The report found that the kilowatt per-hour price would end up being 13 percent higher than STEG had quoted. The study also indicated that the restrictive conditions applied to concessional financing would cancel out any advantage of this type of financing. (Note: Concessional financing is STEG's preferred method of financing its wind energy project. End Note.) The study concludes, as Enerciel claims, that a private wind energy development would be 15 - 20 percent cheaper than public development using concessional financing.

EconOff Goes Four-Wheeling to Kechabta

¶4. (C) Following the meeting, EconOff accompanied Gish and Ben Hassine Bey on a visit to the Kechabta site. UPC/Enerciel noted that STEG employees have been visiting Enerciel sites since publishing the tender and reported STEG employees' efforts to intimidate local landowners in an attempt to get them to break their sales contracts with Enerciel. STEG employees reportedly have been resorting to anti-American sentiments, arguing "How can you be selling to Americans after all they have been doing to our brothers in Iraq, Lebanon, and Palestine?" Two of Enerciel's field technicians and a local resident with whom Enerciel has been consulting with to purchase land told EconOff that STEG employees conducting such activities had departed just one hour earlier. The resident consultant also said that STEG was threatening not to provide local residents with a power connection if they sold their property to the Americans. (Comment: These residents are mostly subsistence farmers, who currently have no connection to neither a power nor a water source. Thus the promise of an electrical connection is a significant incentive for them. Enerciel had told them that whenever the wind energy project was completed, they would be connected into the local power grid. End Comment.)

¶5. (C) One of Enerciel's field technicians had also just returned from arguing against STEG trying to take Enerciel's land in the Governorate of Bizerte's regional office. (Comment: STEG had apparently started a 'process of inquiry' relative to the land Enerciel had already legally purchased. The field representative was giving witness to the fact that the land had been signed over legally at the land registry and the sales had been recorded at the Ministry of Finance. End Comment.) The Enerciel field technicians also showed EconOff a map of the land which Enerciel owned and land that they were working on purchasing as soon as ownership could be established. Gish pointed out that there were plenty of other ridges in the general area, which STEG could have

chosen as sites for their public project. (Comment: EconOff visually confirmed this assertion, lending credence to UPC/Enerciel's claim that STEG plans to exploit the data that UPC/Enerciel shared with it, including analytical reports and layouts for optimal wind energy production on the assumption that UPC/Enerciel would have the right to develop and produce private wind energy there. End Comment.)

Follow-up Meeting - STEG's Thug's On-Scene

16. (C) Econoff, RSO, and Commercial Specialist met again on October 30, 2006, with Peter Gish and Omar Ben Hassine Bey at their urgent request. Enerciel was extremely agitated over an altercation which had occurred the previous day. Enerciel was in the process of closing on the procurement of an additional parcel of land located at the Kechabta site. Their field representative and the resident consultant were at the seller's office in Menzel Bourguiba and Mr. Ben Hassine Bey was on his way with a notary public to sign the paperwork for the sale. Two representatives from STEG showed up at the seller's office and told him not to sell his property to Enerciel; STEG would up the offer. The seller was instructed to wait one hour and a half while STEG got the money to buy the property. Enerciel countered STEG's offer with a higher price. Then a White Renault drove up with four 'thugs' (suspected STEG affiliation but not provable) who got out of the car and physically pulled Enerciel's field representative away from the others. The seller allegedly witnessed that one of 'thugs' brandished a knife and another carried a chain and metal bar so he called the police. The 'thugs' also threatened to burn Enerciel's car in which the resident consultant was seated. Police arrive and take Enerciel field representative down to the station. At the same time, police called for another team to come to the scene and take statements from everybody. As the second police team arrives, the four thugs in the white Renault drive off. The police begin taking statements from the witnesses but then the Director General of STEG's regional office in Bizerte appears on the scene and calls police aside. The Director General talks with the police for several minutes before the police go back to the witnesses

and tell them to go home. Police indicate that no statements would be taken and no official report of the incident would be filed. The Enerciel field representative was released after Mr. Ben Hassine Bey arrived at the police station where he was being held. Enerciel's local employees are now sufficiently scared and worried about their safety to keep them from performing their jobs.

Enerciel Seals the Land Deal

17. (C) In the aftermath of the above incident the seller of the parcel involved indicated in front of STEG representatives that he was so disgusted by their behavior that he would "sell his property to the Americans or even the Israelis before he sold it to STEG!" He then went ahead with the originally planned sale of his land to Enerciel. Today, this seller was summoned to the La Marsa delegate to the Governor's office and told that Bizerte's delegate to the Governor's office had called him and told him about the seller publicly declaring in front of others that he would sell land to the Americans or even the Israelis before selling to STEG. The La Marsa delegate then proceeded to ask him why he had said this and why he sold his land to the Americans.

18. (C) Enerciel indicated that it intends to lodge a complaint in Carthage and with Madame Alifa Farouk - the Mediateur Administratif (Office under the Presidency that deals with the behavior of public officials) over this latest incident. Enerciel has also promised to provide EconOff and RSO with a report detailing the incident, including names of parties involved and statements from the witnesses. If the

Enerciel field representative and the seller consent to be interviewed, EconOff and RSO will go the Enerciel's offices in Carthage to conduct the interview. (Comment. Enerciel indicated that they would not want to come to the Embassy for the interview, fearing that they would be followed and something bad would happen to them, if they were seen going into the American Embassy. End Comment.)

Background

¶9. (C) Reftels provide background on Enerciel's dealings and problems encountered during the eight years that it has been trying to get its private wind energy development project up and running. Key milestones are summarized as follows:

-- In late 1998, Enerciel approached the GOT with a proposal to study wind energy.

-- The GOT gave Enerciel permission to set up some test sites and gather wind data which it was agreed would be shared with STEG.

-- According to UPC/Enerciel, the data obtained was to be owned by both STEG and UPC/Enerciel for a period of five years and could not be used by a third party without the agreement of both STEG and Enerciel. (Comment: Post has not seen documentation substantiating this claim. End Comment.)

-- Since then, Enerciel has submitted numerous proposals to GOT to develop private wind energy on the test sites which demonstrated the best potential.

-- Enerciel has met with various GOT ministers and officials to pitch these proposals and contends that it has repeatedly been given verbal or at least implied assurance that it would be allowed to proceed with a private wind energy project.

¶10. (C) In spite of these reported assurances, Ben Arfa, Director General of STEG, has succeeded in blocking private sector wind energy development. STEG is staunchly against private (particularly if it is American) electricity development -- the root of UPC/Enerciel's problems. Even though the GOT has publicly indicated that it intends to support the independent production of 100 megawatts of wind energy as part of Tunisia's greater development plans, the STEG DG seems to have a stranglehold over the realization of private wind energy development. Post has been unable to confirm exactly where Ben Arfa's power comes from; indications would seem to point to connections to the presidential palace. Ben Arfa has just been given another extension (his

fifth), which allows him to work past the Tunisian mandatory retirement age, and it appears unlikely that private wind energy development will be authorized as long as he controls STEG.

¶11. (C) POST RECOMMENDATION: Emboffs meet regularly with Enerciel and Post has intervened each time Enerciel has encountered problems. The Secretary of Commerce twice wrote to President Ben Ali (in April 2005 and April 2006) about this case. Two previous ambassadors and Post EconOffs have raised the issue with their interlocutors each time the issue has come to a head. Other than verbal indications that the GOT would be supporting private wind energy development in the future, none of these interventions has received a written response. While Enerciel has made a substantial investment in wind energy development in Tunisia, Post is not convinced that there is a strong legal basis to merit a letter from the Secretary. Post will continue to bring the issue to the attention of relevant GOT officials but seeks Department's advice on the next steps. On recommendation from the Department, Post is willing to demarche the Ministry of Foreign Affairs, the Office of the President, the Ministry of Development and International Cooperation, and Ministry of Industry, Energy, Small and Medium-sized Companies. Delivery of any demarche should be coordinated with the Department

also delivering the same demarche to the Tunisian Ambassador
in Washington.
BALLARD